

Introduced by Senator TorlaksonFebruary 22, 2002

An act to amend the heading of Chapter 2 (commencing with Section 7300) of Part 2 of Division 5 of, to amend Sections 7301, 7301.5, 7303, 7304, 7305, 7306, 7307, 7308, 7309, 7310, 7311, 7312, 7313, 7314, 7315, 7316, 7318, 7320, 7321, 7321.5, and 7322 of, to add Sections 7300.1, 7300.2, 7300.3, 7300.4, 7301.1, 7302.1, 7302.2, 7309.1, 7311.1, 7311.2, 7311.3, 7311.4, 7323, 7324, 7324.1, and 7324.2 to, to repeal Section 7317 of, and to repeal and add Sections 7300 and 7302 of, the Labor Code, relating to equipment safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1886, as introduced, Torlakson. Elevators and other conveyances.

Under existing law, with certain exceptions, no elevator may be operated unless it has a permit issued by the Division of Occupational Safety and Health of the Department of Industrial Relations. These provisions of existing law provide for annual inspections of elevators by the division, by inspectors of specified municipalities, or by qualified inspectors of insurance companies. Existing law permits elevators subject to a full maintenance service contract to be inspected every 2 years. Existing law also authorizes elevator permits to be issued on the basis of municipal inspections, as specified. Persons inspecting elevators are required by existing law to obtain a certificate of competency from the division. Existing law provides specified enforcement authority to the division and provides for fees for elevator inspections and permits and field consultations.

This bill would substantially revise and recast this existing law to additionally cover, subject to certain exceptions, defined conveyances,



including, in part, escalators, platform and stairway chair lifts, dumbwaiters, material lifts, moving walks, and automated people movers. Among the changes the bill would make, it would require that on or after June 30, 2003, no conveyance, except a platform lift or stairway chair, may be erected, constructed, installed, or materially altered without a permit from the division. The bill would require the Occupational Safety and Health Standards Board to adopt regulations for emergency signal devices for conveyances in addition to elevators. The bill would require the division to adopt prescribed procedures for 30-day renewable certification of emergency certified qualified elevator mechanics to provide elevator service when a disaster or other emergency exists and there are insufficient regularly certified competent elevator mechanics to cope with the emergency. The bill would require the division to adopt prescribed procedures for 30-day renewable certification of temporary certified competent elevator mechanics where there are no certified qualified elevator mechanics available.

The bill would impose a state-mandated local program by expanding misdemeanor provisions applicable to the operation of an elevator without a permit to also cover other conveyances, except conveyances in a defined private residence. The bill would also revise the applicable misdemeanor penalties. The bill would impose a state-mandated local program by making it a misdemeanor to contract for or authorize the erection, construction, installation, or alteration of a conveyance without a permit in violation of the bill. The bill would also impose a state-mandated local program by making it a misdemeanor for any employer or contractor to engage in the erection, construction, installation, or material alteration of a conveyance without a permit in violation of the bill.

The bill would revise the authority of the division to seek injunctions restraining the operation of elevators without a permit and in a dangerous condition to include all conveyances, would exempt the division from any requirement for an injunction bond, and would make any person who intentionally violates such an injunction subject to prescribed civil penalties.

The bill would make the inspection requirements applicable to all conveyances.

The bill would impose a state-mandated local program by making it a misdemeanor with prescribed punishment for any person owning or having custody, management, or control of the operation of a



conveyance, to operate the conveyance while a repair order of the division is outstanding. The bill would revise current inspection requirements to require initial inspection by division inspectors and reinspection by the division's inspectors or any other defined elevator inspector certified as qualified by the division. On and after June 30, 2003, the bill would prohibit these reinspections unless the inspector is certified by the division. The bill would, with certain exceptions, on and after June 30, 2003, prohibit the erection, construction, material alteration, testing, maintenance, repair, or servicing of a conveyance except by a person, firm, or corporation certified by the division, as specified. On and after June 30, 2003, the bill would prohibit any person from erecting, constructing, materially altering, testing, maintaining, repairing, servicing, removing, or dismantling a conveyance without supervision, unless the person is certified by the division.

The bill would provide for biennial renewal of division certifications under the bill and would provide for fees and continuing education requirements. The bill would make failure of an elevator inspector to comply with certain reporting requirements grounds for revocation certification. The bill would authorize the division to issue temporary permits to operate a conveyance pending receipt of the applicable fee. The bill would revise civil penalties that may be assessed for operating or permitting the operation of a conveyance that is dangerous or in violation of an order prohibiting use. The bill would impose a state-mandated local program by making it a misdemeanor with prescribed penalties (1) to enter, use, or direct or cause another to enter or use a conveyance after a prescribed notice has been attached and before it is made safe or (2) to deface, destroy, or remove such a notice without authority of the division. The bill would also make it a misdemeanor with prescribed penalties for any person to operate a conveyance without a permit or without paying the required fee.

The bill would require the division by December 31, 2003, to propose specified final rulemaking proposals for conveyances for review and adoption by the Occupational Safety and Health Standards Board, require the board to provide public notice of the rulemaking proposals, and provide for adoption of those proposals pursuant to specified requirements. The bill would also require prescribed revisions to the regulations. The bill would specify that standards imposed pursuant to it shall not be applied retroactively.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.



Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 2 (commencing with
2 Section 7300) of Part 2 of Division 5 of the Labor Code is amended
3 to read:

4
5 CHAPTER 2. ~~OPERATION PERSONNEL~~ ELEVATORS, ESCALATORS,
6 PLATFORM AND STAIRWAY CHAIR LIFTS, DUMBWAITERS, MOVING
7 WALKS, AUTOMATED PEOPLE MOVERS, AND OTHER CONVEYANCES
8

9 SEC. 2. Section 7300 of the Labor Code is repealed.

10 SEC. 3. Section 7300 is added to the Labor Code, to read:

11 7300. The Legislature finds and declares all of the following:

12 (a) It is the purpose of this chapter to promote public safety
13 awareness and to assure, to the extent feasible, the safety of the
14 public and of workers with respect to conveyances covered by this
15 chapter.

16 (b) The use of unsafe or defective conveyances imposes a
17 substantial probability of serious and preventable injury to
18 employees and the public. The prevention of these injuries and
19 protection of employees and the public from unsafe conditions is
20 in the best interest of the people of this state. Therefore, this
21 chapter also establishes minimum standards for persons operating
22 or maintaining conveyances covered by this chapter. These
23 standards include familiarity with the operation and safety
24 functions of the components and equipment, and documented
25 training or experience or both, which shall include, but not be
26 limited to, recognizing the safety hazards and performing the
27 procedures to which they are assigned in conformance with all
28 legal requirements.

29 (c) This chapter is not intended to prevent the division from
30 implementing regulations, nor to prevent the use of systems,
31 methods, or devices of equivalent or superior quality, strength, fire

1 resistance, code effectiveness, durability, and safety to those
2 required by the law, provided that there is technical documentation
3 to demonstrate that the equivalency of the system, method, or
4 device, is at least as effective as that prescribed in ASME A17.1,
5 ASME A17.3, ASME A18.1, or ASCE 21.

6 SEC. 4. Section 7300.1 is added to the Labor Code, to read:

7 7300.1. As used in this chapter:

8 (a) “ASCE 21” means the Automated People Mover
9 Standards, as adopted by the American Society of Civil Engineers.

10 (b) “ASME A17.1” means the Safety Code for Elevators and
11 Escalators, an American National Standard, as adopted by the
12 American Society of Mechanical Engineers.

13 (c) “ASME A17.3” means the Safety Code for Existing
14 Elevators and Escalators, an American National Standard, as
15 adopted by the American Society of Mechanical Engineers.

16 (d) “ASME A18.1” means the Safety Standard for Platform
17 Lifts and Stairway Chairlifts, an American National Standard, as
18 adopted by the American Society of Mechanical Engineers.

19 (e) “Automated people mover” has the same meaning as
20 defined in ASCE 21.

21 (f) “Board” or “standards board” means the Occupational
22 Safety and Health Standards Board.

23 (g) “Certified qualified elevator company” means any person,
24 firm, or corporation that (1) possesses a valid contractor’s license
25 if required by Chapter 9 (commencing with Section 7000) of
26 Division 3 of the Business and Professions Code and (2) is certified
27 as a qualified elevator company by the division in accordance with
28 this chapter.

29 (h) “Certified competent elevator mechanic” means any
30 person who has been determined by the division to have the
31 qualifications and ability of a competent journey-level elevator
32 mechanic and is so certified by the division in accordance with this
33 chapter.

34 (i) “Conveyance” means any elevator, dumbwaiter, escalator,
35 moving platform lift, stairway chairlift, dumbwaiter, material lift
36 or dumbwaiter with automatic transfer device, automated people
37 mover, or other equipment subject to this chapter.

38 (j) “Division” means the Division of Occupational Safety and
39 Health.

- 1 (k) “Dormant elevator, dumbwaiter, or escalator” means an
2 installation placed out of service as specified in ASME A17.1 and
3 ASME A18.1.
- 4 (l) “Elevator” means an installation defined as an “elevator”
5 in ASME A17.1.
- 6 (m) “Elevator inspector” means any elevator safety inspector
7 of the division or other elevator inspector determined by the
8 division to be qualified pursuant this chapter. “Elevator
9 inspector” includes any inspector determined by the division to be
10 qualified to inspect other types of conveyances.
- 11 (n) “Escalator” means an installation defined as an
12 “escalator” in ASME A17.1.
- 13 (o) “Existing installation” means an installation defined as an
14 “installation, existing” in ASME A17.1.
- 15 (p) “Full maintenance service contract” means an agreement
16 by a certified competent elevator company and the person owning
17 or having the custody, management, or control of the operation of
18 the conveyance, if the agreement provides that the certified
19 competent elevator company is responsible for effecting repairs
20 necessary to the safe operation of the equipment and will provide
21 services as frequently as is necessary, but no less often than
22 monthly.
- 23 (q) “Material alteration” means an alteration as defined in
24 ASME A17.1 or A18.1.
- 25 (r) “Moving walk” or “moving sidewalk” means an
26 installation defined as a “moving walk” in ASME A17.1.
- 27 (s) “Permit” means a document issued by the division that
28 indicates that the conveyance has had the required safety
29 inspection and tests and fees have been paid as set forth in this
30 chapter.
- 31 (t) “Temporary permit” means a document issued by the
32 division which permits the use of a noncompliant conveyance by
33 the general public for a limited time while minor repairs are being
34 completed or until permit fees are paid.
- 35 (u) “Repair” has the same meaning as defined in ASME A17.1
36 or A18.1. A “repair” does not require a permit.
- 37 (v) “Temporarily dormant elevator, dumbwaiter, or escalator”
38 means a conveyance, the power supply of which has been
39 disconnected by removing fuses and placing a padlock on the
40 mainline disconnect switch in the “off” position. In the case of an



elevator or dumbwaiter, the car shall be parked and the hoistway doors shall be in the closed and latched position. A wire seal shall be installed on the mainline disconnect switch by an elevator inspector of the division. The wire seal and padlock shall not be removed for any purpose without permission from an elevator inspector of the division. A temporarily dormant elevator, dumbwaiter, or escalator shall not be used again until it has been put in safe running order and is in condition for use. Annual inspections by an elevator inspector shall continue for the duration of the temporarily dormant status. Temporarily dormant status may be renewed annually, but shall not exceed five years. After each inspection, the elevator inspector shall file a report with the chief of the division describing the current condition of the conveyance.

(w) The meanings of building transportation terms not otherwise defined in this section shall be as defined in the latest editions of ASME A17.1 and ASME A18.1.

SEC. 5. Section 7300.2 is added to the Labor Code, to read:

7300.2. Except as provided in Section 7300.3, this chapter covers the design, erection, construction, installation, material alteration, inspection, testing, maintenance, repair, service, and operation of the following conveyances and their associated parts and hoistways:

(a) Hoisting and lowering mechanisms equipped with a car or platform which move between two or more landings. This equipment includes, but is not limited to, the following:

(1) Elevators.

(2) Platform lifts and stairway chair lifts.

(b) Power-driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, the following:

(1) Escalators.

(2) Moving walks.

(c) Hoisting and lowering mechanisms equipped with a car which serve two or more landings and are restricted to the carrying of material by limited size or limited access to the car. This equipment includes, but is not limited to, the following:

(1) Dumbwaiters.

(2) Material lifts and dumbwaiters with automatic transfer devices.

1 (d) Automatic guided transit vehicles on guideways with an
2 exclusive right-of-way. This equipment includes, but is not limited
3 to, automated people movers.

4 SEC. 6. Section 7300.3 is added to the Labor Code, to read:

5 7300.3. Equipment not covered by this chapter includes the
6 following:

7 (a) Material hoists within the scope of standard A10.5 as
8 adopted by the American National Standards Institute.

9 (b) Mobile scaffolds, towers, and platforms within the scope of
10 standard A92 as adopted by the American National Standards
11 Institute.

12 (c) Powered platforms and equipment for exterior and interior
13 maintenance within the scope of standard 120.1 as adopted by the
14 American National Standards Institute.

15 (d) Cranes, derricks, hoists, hooks, jacks, and slings within the
16 scope of standard B30 as adopted by the American Society of
17 Mechanical Engineers.

18 (e) Industrial trucks within the scope of standard B56 as
19 adopted by the American Society of Mechanical Engineers.

20 (f) Portable equipment, except for portable escalators that are
21 covered by standard A17.1 as adopted by the American National
22 Standards Institute.

23 (g) Tiering or piling machines used to move materials to and
24 from storage located and operating entirely within one story.

25 (h) Equipment for feeding or positioning materials, including
26 that equipment used with machine tools or printing presses.

27 (i) Skip or furnace hoists.

28 (j) Wharf ramps.

29 (k) Railroad car lifts or dumpers.

30 (l) Line jacks, false cars, shafters, moving platforms, and
31 similar equipment used for installing an elevator by a contractor
32 licensed in this state.

33 (m) Conveyances under the jurisdiction of the government of
34 the United States.

35 SEC. 7. Section 7300.4 is added to the Labor Code, to read:

36 7300.4. This chapter does not apply to work that is not related
37 to standards for conveyances that are (a) incorporated in codes
38 promulgated by the American National Standards Institute or the
39 American Society of Mechanical Engineers or (b) included in
40 regulations of the division, in effect immediately prior to January

1 1, 2003, prescribing elevator safety orders. Work exempted
2 pursuant to this section includes, but is not limited to, routine
3 nonmechanical maintenance, such as cleaning panels and
4 changing light fixtures.

5 SEC. 8. Section 7301 of the Labor Code is amended to read:

6 7301. No ~~elevator conveyance~~ shall be operated in this state
7 unless a permit for ~~the~~ *its* operation ~~thereof~~ is issued by or in behalf
8 of the division, and unless the permit remains in effect and is kept
9 posted conspicuously ~~in on the elevator car conveyance~~. Operation
10 of ~~an elevator a conveyance~~ without a permit or failure to post the
11 permit conspicuously shall constitute cause for the division to
12 prohibit use of the ~~elevator conveyance~~, unless it can be shown that
13 a request for issuance or renewal of a permit has been made and
14 the request has not been acted upon by the division.

15 SEC. 9. Section 7301.1 is added to the Labor Code, to read:

16 7301.1. (a) On and after June 30, 2003, no conveyance,
17 except for platform lifts and stairway chair lifts, may be erected,
18 constructed, installed, or materially altered, as defined by
19 regulation of the division, unless a permit has been obtained from
20 the division before the work is commenced. A copy of the permit
21 shall be kept at the construction site at all times while the work is
22 in progress and shall be made available for inspection upon
23 request.

24 (b) Before March 1, 2003, the division shall establish an
25 application procedure and all requirements for a permit under this
26 section, which shall include the following:

27 (1) At a minimum, the applicant for a permit under this section
28 shall meet all of the following requirements:

29 (A) The applicant shall hold a current elevator contractor's
30 license issued pursuant to Chapter 9 (commencing with Section
31 7000) of Division 3 of the Business and Professions Code.

32 (B) The applicant shall be a certified qualified elevator
33 company.

34 (C) The applicant shall submit proof of the following types of
35 insurance coverage, in the form of certified copies of policies or
36 certificates of insurance:

37 (i) Liability insurance to provide general liability coverage of
38 not less than one million dollars (\$1,000,000) for the injury or
39 death of any one person and not less than five million dollars
40 (\$5,000,000) for injury or death of any number of persons in any

1 one occurrence, with coverage of not less than five hundred
2 thousand dollars (\$500,000) for property damage in any one
3 occurrence.

4 (ii) Workers' compensation insurance coverage.

5 In the event of any material alteration, nonrenewal, or
6 cancellation of any insurance required by this subparagraph, the
7 applicant or permit holder shall submit written notice thereof to the
8 division within five working days.

9 (2) At a minimum, each application for a permit under this
10 section shall include all of the following:

11 (A) Copies of specifications and accurately scaled and fully
12 dimensioned plans showing the location of the installation in
13 relation to the plans and elevation of the building; the location of
14 the machinery room and the equipment to be installed, relocated,
15 or altered; and all structural supporting members thereof,
16 including foundations. The plans and specifications shall identify
17 all materials to be employed and all loads to be supported or
18 conveyed. The plans and specifications shall be sufficiently
19 complete to illustrate all details of construction and design.

20 (B) The name, residence, and business address of the applicant
21 and each partner, or for a corporation of the principal officers and
22 anyone who is authorized to accept service of process or official
23 notices; the number of years the applicant has engaged in the
24 business of constructing, erecting, installing, or altering
25 conveyances; the approximate number of persons to be employed
26 on the permitted job; a declaration signed by the applicant
27 regarding all civil actions to which the applicant is or was a party,
28 whether pending and closed within the last 10 years, which
29 declaration shall provide sufficient information to identify parties,
30 the nature of action, and outcome; and other information as the
31 division may require.

32 (C) The permit fee.

33 (3) The division shall establish, and may from time to time
34 amend, a fee for a permit under this section in an amount sufficient
35 to defray the division's actual costs in administering the permit
36 process, including the costs of investigation, revocation, or other
37 associated costs. Permit fees collected by the division are
38 nonrefundable.

39 (c) (1) The permit shall expire when the work authorized by
40 that permit is not commenced within six months after the date of

1 issuance, or within a shorter period as the division may specify at
2 the time the permit is issued.

3 (2) The permit shall expire following commencement of work,
4 if the permitholder suspends or abandons the work for a period of
5 60 days, or for a shorter period of time as the division may specify
6 at the time the permit is issued.

7 (3) Upon application and for good cause shown, the division
8 may extend a permit that would otherwise expire under this
9 subdivision.

10 (d) The division may revoke any permit at any time, upon good
11 cause, and after notice and an opportunity to be heard.

12 SEC. 10. Section 7301.5 of the Labor Code is amended to
13 read:

14 7301.5. (a) The standards board shall adopt regulations
15 pertaining to ~~elevator~~ conveyances, including, but not limited to,
16 conveyance emergency and signal devices, and the operation of
17 ~~elevators~~ conveyances under fire and other emergency conditions.

18 (b) *Before January 1, 2003, the division shall establish an*
19 *application procedure and all requirements for certification under*
20 *this subdivision as an emergency certified competent elevator*
21 *mechanic. To ensure the safety of the public when a disaster or*
22 *other emergency exists within the state and the number of certified*
23 *competent elevator mechanics in the state is insufficient to cope*
24 *with the emergency, any certified qualified elevator company may,*
25 *within five business days after commencing work requiring*
26 *certified competent elevator mechanics, apply to the division, on*
27 *behalf of all persons performing the work who are not certified*
28 *competent elevator mechanics, for certification as emergency*
29 *certified competent elevator mechanics. Any person for whom*
30 *emergency certification is sought under this subdivision shall be*
31 *certified by a certified qualified elevator company to have an*
32 *acceptable combination of documented experience and education*
33 *to perform work covered by this chapter without direct and*
34 *immediate supervision. The certified qualified elevator company*
35 *shall furnish proof of competency as the division may require. The*
36 *division shall issue an emergency certified competent elevator*
37 *mechanic certificate upon receipt of acceptable documentation*
38 *and payment of the required fee. Each certificate issued pursuant*
39 *to this subdivision shall recite that it is valid for a period of 30 days*
40 *from the date of issuance and for those particular conveyances and*

1 *geographical areas as the division may designate, and otherwise*
2 *shall entitle the person being certified to the rights and privileges*
3 *of a certified competent elevator mechanic as set forth in this*
4 *chapter. The division shall renew an emergency certified*
5 *competent elevator mechanic certificate during the existence of*
6 *the emergency.*

7 *(c) Before January 1, 2004, the division shall establish an*
8 *application procedure and all requirements for certification under*
9 *this subdivision as a temporary certified competent elevator*
10 *mechanic. If there are no certified qualified elevator mechanics*
11 *available to perform elevator work, a certified qualified elevator*
12 *company may apply to the division for certification of one or more*
13 *temporary certified competent elevator mechanics. Any person*
14 *seeking to work as a temporary certified competent elevator*
15 *mechanic shall, before beginning work, be approved by the*
16 *division as having an acceptable combination of documented*
17 *experience and education to perform work covered by this chapter*
18 *without direct and immediate supervision. The certified qualified*
19 *elevator company shall furnish proof of competency as the division*
20 *may require. The division may issue a temporary certified*
21 *competent elevator mechanic certificate upon acceptable*
22 *documentation and payment of the required fee. Each certificate*
23 *issued pursuant to this subdivision shall recite that it is valid for*
24 *a period of 30 days from the date of issuance and while the*
25 *certificate holder is employed by the certified qualified elevator*
26 *company that certified the individual as competent. The certificate*
27 *shall be renewable as long as the shortage of certified competent*
28 *elevator mechanics continues.*

29 SEC. 11. Section 7302 of the Labor Code is repealed.

30 SEC. 12. Section 7302 is added to the Labor Code, to read:

31 7302. The operation of a conveyance without a permit by any
32 person owning or having the custody, management, or control of
33 the operation of the conveyance, is a misdemeanor, punishable by
34 a fine of not more than one thousand dollars (\$1,000),
35 imprisonment in the county jail for not more than 10 days, or by
36 both that fine and imprisonment. Each day of operation for each
37 conveyance without a permit is a separate offense. Any person
38 who has requested the issuance or renewal of a permit if the request
39 has not been acted upon by the division may not be prosecuted for
40 a violation of this section.

SEC. 13. Section 7302.1 is added to the Labor Code, to read:

7302.1. (a) Any person who contracts for or authorizes the erection, construction, installation, or material alteration of a conveyance without a permit in violation of Section 7301.1 is guilty of a misdemeanor punishable by a fine of not more than seventy thousand dollars (\$70,000), imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) Any employer or contractor who contracts for or engages in the erection, construction, installation, or material alteration of a conveyance without a permit in violation of Section 7301.1 is guilty of a misdemeanor punishable by a fine of not more than seventy thousand dollars (\$70,000), imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

SEC. 14. Section 7302.2 is added to the Labor Code, to read:

7302.2. The division may assess a civil penalty of not more than seventy thousand dollars (\$70,000) against any person, and against any employer or contractor, who contracts for the erection, construction, installation, or material alteration of a conveyance without a permit issued pursuant to Section 7301.1.

SEC. 15. Section 7303 of the Labor Code is amended to read:

7303. (a) Whenever any ~~elevator conveyance~~ *is being* operated without ~~the a current valid permit herein required issued pursuant to Section 7304~~, and is in a condition that its use is dangerous to the life or safety of any person, the division or any affected person ~~affected thereby~~ may apply to the superior court of the county in which the ~~elevator conveyance~~ is located for an injunction restraining the operation of the ~~elevator conveyance~~ until the condition is corrected. Proof by certification of the division that a permit has not been issued, *has expired, or has been revoked*, together with the affidavit of any safety inspector of the division *or other expert* that the operation of the ~~elevator conveyance~~ is dangerous to the life or safety of any person, is sufficient ground, in the discretion of the court, for the immediate granting of a temporary restraining order.

(b) *No bond shall be required from the division as a prerequisite for the division to seek or obtain any restraining order under subdivision (a).*

1 (c) Any person who intentionally violates any injunction
2 prohibiting the operation of the conveyance issued pursuant to
3 subdivision (a) shall be liable for a civil penalty, to be assessed by
4 the division, not to exceed seven thousand dollars (\$7,000) for
5 each violation. Each day of operation for each conveyance is a
6 separate violation.

7 SEC. 16. Section 7304 of the Labor Code is amended to read:

8 7304. (a) Except as provided in ~~subdivision~~ subdivisions (b)
9 and (c), the division shall cause all ~~elevators~~ conveyances to be
10 inspected at least once each year. If ~~an elevator~~ a conveyance is
11 found upon inspection to be in a safe condition for operation, a
12 permit for operation for not longer than one year shall be issued by
13 the division.

14 (b) If ~~an elevator~~ a conveyance is subject to a full maintenance
15 service contract, the division may, after investigation and
16 inspection, issue a permit for operation for not longer than two
17 years.

18 SEC. 17. Section 7305 of the Labor Code is amended to read:

19 7305. If inspection shows ~~an elevator to be~~ that a conveyance
20 is in an unsafe condition, the division may issue a preliminary
21 order requiring repairs or alterations to be made to the ~~elevator~~
22 ~~which conveyance~~ that are necessary to render it safe, and may
23 ~~order the~~ prohibit its operation or use ~~thereof discontinued~~ until
24 the repairs or alterations are made or the unsafe conditions are
25 removed.

26 SEC. 18. Section 7306 of the Labor Code is amended to read:

27 7306. Unless the preliminary order is complied with, a
28 hearing before the division shall be allowed, upon request, at
29 which the owner, operator, or other person in charge of the ~~elevator~~
30 conveyance may appear and show cause why he *or she* should not
31 comply with the order.

32 SEC. 19. Section 7307 of the Labor Code is amended to read:

33 7307. (a) If it thereafter appears to the division that the
34 ~~elevator conveyance~~ is unsafe and that the requirements contained
35 in the preliminary order should be complied with, or that other
36 things should be done to make ~~such elevator~~ the conveyance safe,
37 the division may order or confirm the withholding of the permit
38 and may ~~make such~~ impose requirements as it deems proper for ~~its~~
39 the repair or alteration of the conveyance or for the correction of
40 ~~such~~ the unsafe condition. ~~Such~~ The order may thereafter be

1 reheard by the division or reviewed by the courts in the manner
2 specified for safety orders by Part 1 (*commencing with Section*
3 *6300*) of this division, and not otherwise.

4 (b) *The operation of a conveyance by any person owning or*
5 *having the custody, management, or control of the operation*
6 *thereof, while an order to repair is outstanding pursuant to*
7 *subdivision (a), is a misdemeanor punishable by a fine of not more*
8 *than seven thousand dollars (\$7,000), by imprisonment in the*
9 *county jail for not more than 30 days, or by both that fine and*
10 *imprisonment. Each day of operation for each conveyance without*
11 *a permit is a separate offense.*

12 SEC. 20. Section 7308 of the Labor Code is amended to read:

13 7308. If the operation of ~~an elevator~~ *a conveyance* during the
14 making of repairs or alterations is not immediately dangerous to
15 the safety of persons, the division may issue a temporary permit
16 ~~for the its operation thereof~~ *for a period* not to exceed 30 days
17 during the making of repairs or alterations.

18 SEC. 21. Section 7309 of the Labor Code is amended to read:

19 7309. The division ~~may cause the inspection herein provided~~
20 ~~for~~ *shall cause any initial inspection pursuant to this chapter to be*
21 *made by its elevator inspectors, but the division may cause any*
22 *reinspection to be made either by its safety elevator inspectors or*
23 *by any qualified other elevator inspector employed by an*
24 *insurance company.*

25 SEC. 22. Section 7309.1 is added to the Labor Code, to read:

26 7309.1. (a) On and after June 30, 2003, no conveyance
27 subject to this chapter shall be reinspected by any person unless the
28 person is an elevator inspector employed by the division or
29 certified as qualified by the division.

30 (b) Before March 1, 2003, the division shall establish an
31 application procedure and all requirements for the certification of
32 elevator inspectors. Each application for certification shall include
33 information as the division may require and the applicable fee. At
34 a minimum, the applicant shall present proof of certification as a
35 qualified elevator inspector by the American Society of
36 Mechanical Engineers or proof of education and experience
37 equivalent to what is required to obtain that certification from the
38 American Society of Mechanical Engineers.

39 SEC. 23. Section 7310 of the Labor Code is amended to read:

1 7310. The division may also issue its permit or a permit may
2 be issued ~~in~~ on its behalf based upon a certificate of inspection
3 issued by ~~qualified an~~ elevator ~~inspectors~~ *inspector* of any
4 municipality, upon proof to ~~its~~ *the* satisfaction of ~~the division~~ that
5 the safety requirements of ~~such the~~ municipality are equal to the
6 minimum safety requirements for ~~elevators~~ *conveyances* adopted
7 by the board.

8 SEC. 24. Section 7311 of the Labor Code is amended to read:

9 7311. All persons making inspection of ~~elevators~~
10 *conveyances* shall first secure from the division a certificate of
11 competency to make ~~such those~~ inspections. The division may
12 determine the competency of any applicant for ~~such the~~ certificate,
13 either by examination or by other satisfactory proof of
14 qualifications. ~~Notwithstanding any other provision of the law, a~~
15 ~~qualified elevator inspector employed by an insurance company~~
16 ~~need not be a citizen or an elector.~~ The division may rescind at any
17 time, upon good cause being shown therefor, and after hearing, if
18 requested, any certificate of competency issued by it to an elevator
19 inspector.

20 SEC. 25. Section 7311.1 is added to the Labor Code, to read:

21 7311.1. (a) On and after June 30, 2003, no conveyance
22 subject to this chapter, except for platform lifts and stairway chair
23 lifts, shall be erected, constructed, installed, materially altered,
24 tested, maintained, repaired, or serviced by any person, firm, or
25 corporation unless the person, firm, or corporation is certified by
26 the division as a certified qualified elevator company. A copy of
27 the certificate shall be kept at the site of the conveyance at all times
28 while any work is in progress, and shall be made available for
29 inspection upon request. However, certification under this section
30 is not required for removing or dismantling conveyances that are
31 destroyed as a result of the complete demolition of a secured
32 building or structure or where the hoistway or wellway is
33 demolished back to the basic support structure and no access is
34 permitted that would endanger the safety of any person.

35 (b) Before March 1, 2003, the division shall establish an
36 application procedure and all requirements for certification under
37 this section as a certified qualified elevator company, consistent
38 with this section. At a minimum, the individual qualifying on
39 behalf of a corporation, the owner on behalf of a sole ownership,

1 or the partners on behalf of a partnership, shall meet either of the
2 following requirements:

3 (1) Five years' work experience at a journey person level in the
4 elevator industry in construction, installation, alteration, testing,
5 maintenance, and service and repair of conveyances covered by
6 this chapter. This experience shall be verified by current and
7 previously licensed elevator contractors or by current and
8 previously certified qualified elevator companies.

9 (2) Satisfactory completion of a written examination
10 administered by the division on the most recent applicable codes
11 and standards.

12 (c) At a minimum, each application for certification as a
13 certified qualified elevator company shall include:

14 (1) The name, residence and business address, and telephone
15 numbers and other means to contact the sole owner or each partner,
16 or for a corporation of the principal officers and the individual
17 qualifying for the corporation; the number of years the applicant
18 business has engaged in the business of constructing, maintaining,
19 and service and repair of conveyances; and other information as
20 the division may require.

21 (2) The fee required by this chapter.

22 (d) Before bidding for or engaging in any work covered by this
23 chapter, a certified qualified elevator company shall submit proof
24 to the division by certified copies of policies or certificates of
25 insurance, of all of the following:

26 (1) Liability insurance providing general liability coverage of
27 not less than one million dollars (\$1,000,000) for injury or death
28 of any one person and not less than five million dollars
29 (\$5,000,000) for injury or death of any number of persons in any
30 one occurrence, with coverage of not less than five hundred
31 thousand dollars (\$500,000) for property damage in any one
32 occurrence.

33 (2) Workers' compensation insurance coverage.

34 In the event of any material alteration or cancellation of any
35 policy specified in paragraph (1) or (2), the certified qualified
36 elevator company shall provide written notice thereof to the
37 division within five working days.

38 SEC. 26. Section 7311.2 is added to the Labor Code, to read:

39 7311.2. (a) On and after June 30, 2003, except as provided in
40 subdivisions (b) and (c) of Section 7301.5, any person who,

1 without supervision, erects, constructs, installs, alters, tests,
2 maintains, services or repairs, removes, or dismantles any
3 conveyance covered by this chapter shall be certified as a certified
4 competent elevator mechanic by the division.

5 (b) Before March 1, 2003, the division shall establish an
6 application procedure and all requirements for certification under
7 this section as a certified competent elevator mechanic, consistent
8 with all of the following:

9 (1) At a minimum, a certified competent elevator mechanic
10 applicant shall meet both of the following requirements:

11 (A) Three years' work experience in the elevator industry in
12 construction, maintenance, and service and repair of conveyances
13 covered by this chapter. This experience shall be verified by
14 current and previously licensed elevator contractors or by current
15 and previously certified qualified elevator companies, as required
16 by the division.

17 (B) One of the following:

18 (i) Satisfactory completion of a written examination
19 administered by the division on the most recent applicable codes
20 and standards.

21 (ii) A certificate of completion and successfully passing the
22 mechanic examination of a nationally recognized training
23 program for the elevator industry, such as the National Elevator
24 Industry Educational Program or its equivalent.

25 (iii) A certificate of completion of an apprenticeship program
26 for elevator mechanic, having standards substantially equal to
27 those of this chapter, and which program shall be registered with
28 the Bureau of Apprenticeship and Training of the United States
29 Department of Labor or a state apprenticeship council.

30 (iv) A certificate or license from another state having standards
31 substantially equal to or more comprehensive than those of this
32 chapter.

33 (v) The applicant applies on or before December 31, 2003, and
34 within the three years immediately prior to January 1, 2003, has
35 documented at least three years of actual work experience in the
36 elevator industry in construction, maintenance, and service and
37 repair of conveyances covered by this chapter. This experience
38 shall be as a journey-level mechanic working without direct and
39 immediate supervision, and shall be verified by currently and
40 previously licensed elevator contractors or by current and

1 previously certified qualified elevator companies, as required by
2 the division.

3 (2) At a minimum, each application for certification as a
4 certified competent elevator mechanic shall include the
5 information required by the division and the fee required by this
6 chapter.

7 SEC. 27. Section 7311.3 is added to the Labor Code, to read:

8 7311.3. (a) A certificate issued by the division to the certified
9 qualified elevator inspector, certified qualified elevator company,
10 or certified competent elevator mechanic as set forth in Sections
11 7309.1, 7311.1, and 7311.2, shall have a term of two years. The fee
12 for biennial renewal shall be established by the division in an
13 amount sufficient to defray the division's costs of administering
14 this chapter.

15 (b) The renewal of all certificates issued under this chapter
16 shall be conditioned upon the submission of a certificate of
17 completion of a course designed to ensure the continuing
18 education of certificate holders on new and existing provisions of
19 the regulations of the board. This continuing education course
20 shall consist of not less than eight hours of instruction that shall be
21 attended and completed within one year immediately preceding
22 any certificate renewal.

23 (c) The courses shall be taught by instructors through
24 continuing education providers that may include, but shall not be
25 limited to, division programs, association seminars, and joint
26 labor-management apprenticeship and journeyman upgrade
27 training programs. The division shall approve the continuing
28 education providers and curriculum. All instructors shall be
29 approved by the division and shall be exempt from the
30 requirements of subdivision (b), provided that the applicant is
31 qualified as an instructor at any time during the one-year period
32 immediately preceding the scheduled date for renewal.

33 (d) A certificate holder who is unable to complete the
34 continuing education course required under this section prior to
35 the expiration of his or her certificate due to a temporary disability
36 may apply for a waiver from the division. Waiver applications
37 shall be submitted to the division on a form provided by the
38 division. Waiver applications shall be signed and accompanied by
39 a declaration signed by a competent physician attesting to the
40 applicant's temporary disability. Upon the termination of the

1 temporary disability, the certificate holder shall submit to the
2 division a declaration from the same physician, if practicable,
3 attesting to the termination of the temporary disability, and a
4 waiver sticker, valid for 90 days, shall be issued to the certificate
5 holder and affixed to his or her certificate.

6 (e) Continuing education providers approved by the division
7 shall keep uniform records, for a period of 10 years, of attendance
8 of certificate holders, following a format approved by the division.
9 These records shall be available for inspection by the division at
10 its request. Approved continuing education providers shall keep
11 secure all attendance records and certificates of completion.
12 Falsifying or knowingly allowing another to falsify attendance
13 records or certificates of completion of continuing education
14 provided pursuant to this section shall constitute grounds for
15 suspension or revocation of the approval required under this
16 section.

17 SEC. 28. Section 7311.4 is added to the Labor Code, to read:

18 7311.4. (a) The division shall establish fees for initial and
19 renewal applications for certification under this chapter as a
20 certified qualified elevator inspector, certified qualified elevator
21 company, or certified competent elevator mechanic based upon the
22 actual costs involved with the certification process, including the
23 cost of developing and administering any tests as well as any costs
24 related to continuing education, investigation, revocation, or other
25 associated costs.

26 (b) Fees collected pursuant to this chapter are nonrefundable.

27 SEC. 29. Section 7312 of the Labor Code is amended to read:

28 7312. The division may at any time, upon good cause being
29 shown therefor, and after notice and an opportunity to be heard,
30 revoke any permit to operate ~~and elevator~~ a conveyance.

31 SEC. 30. Section 7313 of the Labor Code is amended to read:

32 7313. Each *elevator* inspector ~~so-certified~~ shall, within 21
33 days after he *or she* makes an inspection, forward to the division
34 on forms provided by it, a report of the inspection, ~~in default of~~
35 ~~which his certificate of competency may be canceled.~~ *Failure to*
36 *comply with this section shall be grounds for the division to cancel*
37 *his or her certificate.*

38 SEC. 31. Section 7314 of the Labor Code is amended to read:

39 7314. (a) The division may fix and collect fees for the
40 inspection of ~~elevators~~ conveyances as it deems necessary to cover

the actual costs of having the inspection performed by a division safety engineer, including administrative costs, *the costs of providing notice and information about conveyance safety requirements pursuant to subdivision (c) of Section 7304, and other costs related to regulatory development as required by Section 7323.* An additional fee may, in the discretion of the division, be charged for necessary subsequent inspections to determine if applicable safety orders have been complied with.

~~(b) The division may charge a fee of not more than fifteen dollars (\$15) to cover the cost of processing a permit.~~

~~(e)~~

(b) The division may fix and collect fees for field consultations regarding ~~elevators~~ *conveyances* as it deems necessary to cover the actual costs of the time spent in the consultation by a division safety engineer, including administrative *and travel* expenses.

~~(d)~~

(c) Whenever a person owning or having the custody, management, or operation of ~~an elevator~~ *a conveyance* fails to pay the fees required under this chapter within 60 days after the date of notification, he or she shall pay, in addition to the fees required under this chapter, a penalty fee equal to 100 percent of the fee. Failure to pay fees within 60 days after the date of notification shall constitute cause for the division to prohibit use of the ~~elevator~~ *conveyance*.

~~(e)~~

(d) Any fees required pursuant to this section shall be ~~embodied~~ *set forth* in regulations that shall be adopted as emergency regulations. These emergency regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These regulations shall become effective immediately upon filing with the Secretary of State.

~~(f)~~

(e) For purposes of this section, the date of the invoice assessing a fee pursuant to this section shall be considered the date of notification.

SEC. 32. Section 7315 of the Labor Code is amended to read:

1 7315. Fees shall be paid before the issuance of any permit to
2 operate ~~an elevator~~ *a conveyance, but a temporary permit may be*
3 *issued pending receipt of fee payment.* No fee shall be charged by
4 the division where an inspection has been made by an inspector of
5 an insurance company or municipality if ~~such~~ *that* inspector holds
6 a certificate of ~~competency~~ *as an elevator inspector* and an
7 inspection report is filed with the division within 21 days after
8 inspection is made.

9 SEC. 33. Section 7316 of the Labor Code is amended to read:

10 7316. All fees collected by the division under this chapter
11 shall be paid into the Elevator Safety Account which is hereby
12 created for the administration of the division's ~~elevator~~
13 *conveyance* safety program. The division shall establish criteria
14 upon which fee charges are based and prepare an annual report
15 concerning revenues obtained and expenditures appropriated for
16 the ~~elevator~~ *conveyance* safety program. The division shall file the
17 report with the Legislative Analyst, the Joint Legislative Audit
18 Committee, and the Department of Finance.

19 SEC. 34. Section 7317 of the Labor Code is repealed.

20 SEC. 35. Section 7318 of the Labor Code is amended to read:

21 7318. Nothing in ~~the foregoing sections of this chapter shall~~
22 ~~limit~~ *limits* the authority of the division to prescribe or enforce
23 general or special safety orders.

24 SEC. 36. Section 7320 of the Labor Code is amended to read:

25 7320. The division may assess a civil penalty ~~of up to~~ *not to*
26 *exceed* one thousand dollars (\$1,000) against any person owning
27 or having custody, management, or *control of the* operation of ~~an~~
28 ~~elevator~~ *a conveyance*, who operates the ~~elevator~~ *conveyance*
29 without a permit or who fails to conspicuously post the permit in
30 the ~~elevator car~~ *conveyance*. No penalty shall be assessed ~~where~~
31 ~~a request for~~ *against any person who has requested the* issuance or
32 renewal of a permit ~~has been made~~ and the request has not been
33 acted upon by the division.

34 SEC. 37. Section 7321 of the Labor Code is amended to read:

35 7321. The division may assess a civil penalty ~~of up to two~~
36 *exceed* seventy thousand dollars ~~(\$2,000)~~ *(\$70,000)* against any
37 person owning or having custody, management, or *control of the*
38 operation of ~~an elevator~~ *a conveyance*, who operates or permits the
39 operation of the ~~elevator~~ *conveyance* in a condition that is
40 dangerous to the life or safety of any person, or who operates or

1 permits the operation of the ~~elevator~~ conveyance in violation of an
2 order prohibiting use issued pursuant to ~~Sections 7301, 7305, and~~
3 ~~Section 7301, 7301.1, or 7305 or subdivision (b) of Section 7314.~~

4 SEC. 38. Section 7321.5 of the Labor Code is amended to
5 read:

6 7321.5. The division shall enforce Sections 7320 and 7321 by
7 issuance of a citation and notice of civil penalty in a manner
8 consistent with Sections 6317 and 6319. Any person owning or
9 having custody, management, or *control of the operation of an*
10 ~~elevator~~ *a conveyance* who receives a citation and notice of civil
11 penalty may appeal to the Occupational Safety and Health Appeals
12 Board in a manner consistent with Section 6319.

13 SEC. 39. Section 7322 of the Labor Code is amended to read:

14 7322. (a) Once an authorized representative of the division
15 has issued an order prohibiting the use of ~~an elevator~~ *a conveyance*
16 as specified in Sections 7301, 7305, and 7314, the person owning
17 or having custody, management, or operation of the ~~elevator~~
18 *conveyance* may contest the order and shall be granted, upon
19 request, a hearing to review the validity of the order. The hearing
20 shall be held no later than 10 working days following receipt of the
21 request for hearing.

22 (b) *After a notice is attached as provided in Section 7305, every*
23 *person who enters or uses, or directs or causes another to enter or*
24 *use, any conveyance before it is made safe, or who defaces,*
25 *destroys, or removes the notice without the authority of the*
26 *division, is guilty of a misdemeanor punishable by a fine of not*
27 *more than seventy thousand dollars (\$70,000), by imprisonment in*
28 *the county jail for not more than one year, or by both that fine and*
29 *imprisonment.*

30 (c) *After a notice is attached for failure to comply with the*
31 *requirements of Section 7301 or 7314, every person who enters or*
32 *uses, or directs or causes another to enter or use, any conveyance*
33 *before it is made safe, or who defaces, destroys, or removes the*
34 *notice without the authority of the division, is guilty of a*
35 *misdemeanor punishable by a fine of not more than seven thousand*
36 *dollars (\$7,000), imprisonment in the county jail for not more than*
37 *six months, or by both that fine and imprisonment.*

38 SEC. 40. Section 7323 is added to the Labor Code, to read:

39 7323. The division shall propose to the standards board for
40 review, and the standards board shall adopt, regulations for the

1 equipment covered by this chapter. Not later than December 31,
2 2003, the division shall propose final rulemaking proposals to the
3 standards board for review and adoption, which shall include
4 provisions at least as effective as ASME A17.1, ASME A17.3,
5 ASME A18.1, and ASCE 21, as in effect prior to September 30,
6 2002. Not later than nine months after the effective date of any
7 revision or any substantive revision to any addendum to these
8 codes, the division shall propose additional final rulemaking
9 proposals to the standards board for review and adoption at least
10 as effective as those in the revised code or addendum. The
11 standards board shall notice the division's final rulemaking
12 proposals for public hearing within three months of their receipt
13 and shall adopt the proposed regulations promptly and in
14 accordance with subdivision (b) of Section 11346.4 of the
15 Government Code.

16 SEC. 41. Section 7324 is added to the Labor Code, to read:
17 7324. Individuals, firms, or companies certified as described
18 in this chapter shall ensure that installation and service and
19 maintenance of elevators and other conveyances are performed in
20 compliance with the provisions contained in the State Fire
21 Prevention and Building Code and with generally accepted
22 standards referenced in that code.

23 SEC. 42. Section 7324.1 is added to the Labor Code, to read:
24 7324.1. This chapter shall not be construed to relieve or lessen
25 the responsibility or liability of any person, firm, or corporation
26 owning, operating, controlling, maintaining, erecting,
27 constructing, installing, altering, testing, or repairing any
28 conveyance or other related mechanisms covered by this chapter
29 for damages to any person or property caused by any defect
30 therein.

31 SEC. 43. Section 7324.2 is added to the Labor Code, to read:
32 7324.2. The provisions of this chapter added or amended by
33 the act enacting this section shall not be applied retroactively.
34 Equipment subject to this chapter shall be required to comply with
35 the applicable standards in effect on the date of its installation or
36 within the period determined by the board for compliance with
37 ASME A17.3, whichever is more stringent.

38 SEC. 44. No reimbursement is required by this act pursuant
39 to Section 6 of Article XIII B of the California Constitution
40 because the only costs that may be incurred by a local agency or



1 school district will be incurred because this act creates a new crime
2 or infraction, eliminates a crime or infraction, or changes the
3 penalty for a crime or infraction, within the meaning of Section
4 17556 of the Government Code, or changes the definition of a
5 crime within the meaning of Section 6 of Article XIII B of the
6 California Constitution.

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